

SOLICITOR

FILED NOV - 1 2007

U.S. PATENT & TRADEMARK OFFICE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

07 OCT 30 PM 12:02

LINCOLN NATIONAL LIFE INSURANCE  
COMPANY,

Plaintiff,

v.

JACKSON NATIONAL LIFE  
INSURANCE COMPANY and JACKSON  
NATIONAL LIFE INSURANCE COMPANY  
OF NEW YORK

Defendants.

CLERK  
FOR THE  
DISTRICT

1407CV0265PS

CASE NO. \_\_\_\_\_

Pat. # 6,611,815  
7,089,201

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Lincoln National Life Insurance Company, by counsel, and for its complaint against Defendants, Jackson National Life Insurance Company and Jackson National Life Insurance Company of New York, alleges and states as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. This is an action for patent infringement arising under Title 35 of the United States Code. This Court has jurisdiction over the subject matter of this controversy under 28 U.S.C. §§ 1331 and 1338(A).

2. Plaintiff, Lincoln National Life Insurance Company ("Lincoln"), is a corporation organized and existing under the laws of the State of Indiana. Lincoln has a principal place of business located in Fort Wayne, Indiana.

3. Upon information and belief, Jackson National Life Insurance Company ("JNL") is a corporation organized and existing under the laws of the State of Michigan. JNL's principal place of business is located at 1 Corporate Way, Lansing, Michigan 48951.

4. JNL is doing business in this judicial district. JNL is licensed and registered with the Indiana Department of Insurance. Materials from the Indiana Department of Insurance's website showing JNL's registration are attached as Exhibit 3. Additionally, materials from JNL's website provide that JNL is "admitted to conduct life insurance and annuity business in the District of Columbia and all states except New York." (See Exhibit 4).

5. Upon information and belief, Jackson National Life Insurance Company of New York ("JNLNY") is a corporation organized and existing under the laws of the State of New York. JNLNY's principal place of business is located at 2900 Westchester Ave., Suite 305, Purchase, New York 10577.

6. JNLNY is a wholly owned subsidiary of JNL. Upon information and belief, JNLNY is doing business in this judicial district.

7. Venue lies in this judicial district by virtue of 28 U.S.C. §§ 1391 and 1400(b).

#### **COUNT I - PATENT INFRINGEMENT - U.S. PATENT NO. 6,611,815**

8. On August 26, 2003, United States Patent No. 6,611,815 (the "'815 Patent"), entitled "Method and System for Providing Account Values in an Annuity with Life Contingencies," was duly and legally issued to Lincoln. On July 27, 2004, the United States Patent and Trademark Office issued a Certificate of Correction, correcting Column 13, lines 40-55 of the '815 Patent. A copy of the '815 Patent and the Certificate of Correction is attached as Exhibit 1.

9. The '815 patent relates to a data processing method for administering an annuity product having a guarantee of lifetime payments.

10. Since August 26, 2003, Lincoln has been and is still the owner by assignment of the entire right, title, and interest in and to the '815 Patent.

11. JNL and JNLNY individually and collectively have been, and are now, willfully and deliberately infringing the '815 Patent by administering annuity products sold within this judicial district and elsewhere that have guaranteed minimum withdrawal benefits ("GMWBs") including (but not limited to) "LifeGuard Advantage," "LifeGuard Ascent," "LifeGuard Select," "LifeGuard Protector," "LifeGuard Protector Plus," "LifeGuard 5," and "LifeGuard 4." Defendants' GMWBs are covered by at least Claims 1, 21 and 28 of the '815 Patent. Marketing materials describing these GMWBs are attached as Exhibit 5.

12. Through prior correspondence, Lincoln has provided notice to the Defendants regarding the '815 Patent. Despite this notice, the Defendants have willfully and deliberately persisted in its infringement.

13. As a consequence of the acts of infringement by the Defendants, Lincoln has suffered irreparable damage to its property in an amount not yet determined, and Lincoln will continue to be damaged by such acts in the future.

#### **COUNT II - PATENT INFRINGEMENT - U.S. PATENT NO. 7,089,201**

14. On August 8, 2006, United States Patent No. 7,089,201 (the "'201 Patent'"), entitled "Method and Apparatus for Providing Retirement Income Benefits" was duly and legally issued to Lincoln. The '201 Patent relates to a computerized method for administering annuity products. A copy of the '201 Patent is attached as Exhibit 2.

15. Since August 8, 2006, Lincoln has been and is still the owner by assignment of the entire right, title, and interest in and to the '201 Patent.

16. JNL and JNLNY individually and collectively have been, and are now, willfully and deliberately infringing the '201 Patent by administering annuity products sold within this judicial district and elsewhere that have guaranteed minimum withdrawal benefits ("GMWBs") (including but not limited to) "SafeGuard 7 Plus," "AutoGuard 5," "AutoGuard 6," "MarketGuard 5," "LifeGuard Advantage," "LifeGuard Ascent," "LifeGuard Select," "LifeGuard Protector," "LifeGuard Protector Plus," "LifeGuard 5," and "LifeGuard 4" options. These GMWBs are covered by at least Claims 35-42 of the '201 Patent.

17. Through prior correspondence, Lincoln has provided notice to the Defendants regarding the '201 Patent. Despite this notice, the Defendants have willfully and deliberately persisted in its infringement.

18. As a consequence of the acts of infringement by the Defendants, Lincoln has suffered irreparable damage to its property in an amount not yet determined, and Lincoln will continue to be damaged by such acts in the future.

WHEREFORE, Lincoln prays for:

(a) A judgment declaring the '815 Patent and the '201 Patent infringed by the Defendants;

(b) An award of damages adequate to compensate Lincoln for Defendants' infringement of the '815 Patent and the '201 Patent, but in no event less than a reasonable royalty, together with interest and costs as fixed by the Court;

(c) An award increasing damages up to three times the amount found or assessed by the Court to be due Lincoln for Defendants' infringement of the '815 Patent and the '201 Patent in view of the willful and deliberate nature of the infringement;

(d) An award of reasonable attorneys' fees under 35 U.S.C. § 285;

(e) A permanent injunction enjoining Defendants from continuing their infringing activities; and

(f) An award of all other relief appropriate in the premises.

### **RESERVATION OF RIGHTS**

Lincoln hereby reserves the right to name additional JNL-related entities to this lawsuit for patent infringement as investigation and discovery continue.

### **JURY DEMAND**

Lincoln, by counsel, and under Fed. R. Civ. P. 38, demands a trial by jury of all issues triable of right by jury.

Respectfully submitted,



D. Randall Brown (#15127-49)

(randy.brown@btlaw.com)

Gary C. Furst (#19349-64)

(gary.furst@btlaw.com)

BARNES & THORNBURG

600 One Summit Square

Fort Wayne, IN 46802

Telephone: (260) 423-9440

Facsimile: (260) 424-8316

ATTORNEYS FOR THE PLAINTIFF,  
LINCOLN NATIONAL LIFE  
INSURANCE COMPANY